IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 1108 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE Z.K.SAIYED

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Appellant(s)
Versus
VINODCHANDRA @ VINODKUMAR & 1 - Opponent(s)

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Appearance :
MR IM PANDYA, APP, for Appellant(s) : 1,
MR CL SONI for Opponent(s) : 1,
MR KR RAVAL for Opponent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE Z.K.SAIYED

Date : 11/12/2007

ORAL JUDGMENT

1. The present acquittal Appeal has been filed by the State, under Section 378 Cr. P.C., against the Judgment and order dated 28.9.1995, rendered

in Criminal Case No.584 of 1989 by the learned Judicial Magistrate, First Class, Deesa. The said case was registered against the present respondent for the offence under Section 7 & 16 of the Prevention of Food Adulteration Act (for short “PFA Act”) in the Court of learned JMFC, Deesa. The said Judgment of the trial Court has been challenged by the State on the ground that the Judgment and order passed by learned Magistrate is against the law and evidence on record.

2. According to the prosecution case the complainant – Food Inspector Shri B.N.Trivedi visited the shop of the present respondents – accused, which is situated at Deesa Nagarik Bank Building, on 29.11.1988 and purchased 600 grams Black Pepper (“Kala Mari”) from the Steel Box. The said sample Black Pepper (Kala Mari) was sealed under the instruction of Food Inspector and then the same was sent to the Public Analyst for Report. Upon receipt of the Report from the Public Analyst it was found that the food sample was adulterated. Therefore, the complaint was filed against the present respondents – accused. Thereafter the charge was framed against the respondents – accused and accused came to be tried.

3. At the conclusion of trial and after appreciating the oral as well as documentary

evidence, the learned Magistrate vide impugned Judgment, acquitted the respondent – accused.

4. Learned A.P.P. Shri I.M. Pandya, appearing on behalf of the appellant – State has contended that the Judgment and order of acquittal is contrary to law and evidence on record and is not proper. He has also contended that the learned trial Judge has failed to appreciate that the sample of Black Pepper was found to be adulterated and was below the standard quality as per the Rules of Prevention of Food Adulteration Rules, 1954. He has contended that the trial Court has failed to appreciate the report of Central Food Laboratory. He has also contended that the said sample was taken in presence of Panchas and the Panch witnesses have admitted the same. He has also contended that the prosecution has proved its case beyond reasonable doubt, yet the trial Court has failed to appreciate the oral as well as documentary evidence and erred in acquitting the respondent - accused.

5. Learned Advocate Mr. Raval, appearing for the respondents – accused has contended that Black Pepper (Kala Mari) was purchased by the complainant and it is alleged by the prosecution that the Black Pepper contained mineral oil. He has also contended that the Black Pepper in the process of processing is always rubbed with oil.

Therefore, the Judgment and order of the trial Court is just and proper. He has relied upon the decision in the case of “The Food Inspector v/s. R. Chunnalal”, reported in 1994 (2) FAC 159 and contended that the Andhra Pradesh High Court has decided and settled the said Issue in the said Judgment.

6. I have gone through the papers produced in the Case. I have also gone through the evidence led before the trial Court as well as the Expert Opinion. I have also gone through the Judgment of the trial Court. It is true that Black Pepper contained mineral oil. It is not in dispute that the black pepper in the process of processing is always rubbed with oil and during the examination of said sample the presence of oil can be established by the Analyst. In my view, the prosecution has failed to establish that the said black pepper is injurious to health. In the facts of the case I am in complete agreement with the reasons assigned by the trial Court.

7. It is settled legal position that in acquittal Appeal, the Appellate Court is not required to re-write the Judgment or to give fresh reasonings when the Appellate Court is in agreement with the reasons assigned by the trial Court acquitting the accused. In the instant case, this Court is in full agreement with the reasons given and findings recorded by the trial Court while acquitting the respondents – accused

and adopting the said reasons and for the reasons aforesaid, in my view, the impugned Judgment is just, legal and proper and requires no interference by this Court at this stage. Hence, this Appeal requires to be dismissed.

8. In the result, the Appeal is hereby dismissed. The impugned Judgment and order dated 28.9.1995 passed by the learned J.M.F.C., Deesa in Criminal Case No. 584 of 1986, acquitting the respondents – accused, is hereby confirmed.

(Z.K.SAIYED,J.)

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